

STAFF REPORT

TO: Planning & Economic Development Committee **DATE:** 3/11/08
FROM: Shannon Tuch, RLA, Interim Planning and Development Director
SUBJECT: Landscape Ordinance and Tree Preservation

Background: A comprehensive audit of the Landscape and Buffering standards (Article XI) was initiated in 2006. Work was done by a professional interdisciplinary citizen committee, with staff representation, which culminated in recommended changes that were adopted in May of 2007.

Report Summary:

The Landscape and Buffering section of the UDO (Sec. 7-11-3) includes a variety of landscape standards that are required with, varying degree, under a number of circumstances:

- Any new public or private development with the exception of single or two-family housing developments;
- Major subdivisions of eight lots or greater;
- Changes of use to a higher impact (See Article XVII – Impact Table) ;
- Renovations with a total cost exceeding 50 percent of the appraised value of the building. The value of any expansions, enlargements, or reconstruction of such structures over a three year period shall be cumulated in calculating the 50 percent threshold.
- Expansions exceeding 50 percent of the pre-expansion floor area or paved surface;
- Existing unpaved parking lots which are paved over or existing paved lots which are demolished and repaved.
- Expansions or additions that are less than 50 percent of the pre-expansion floor area and/or pavement surface must meet the landscaping requirements only in the area around the addition which is parallel to any edge of the expansion area and extending to the property line or street pavement edge.

Landscape standards are broken down into six categories that are applied based on the context of the site. A new development project is only required to comply with those standards that are applicable; for example, if a project does not front a street then ‘Street Tree’ requirements would not be applied. A landscape plan is submitted and reviewed as part of the site plan review process – depending on the complexity of the project, landscape symbols and calculations may be submitted as part of the basic site plan or may be submitted as a separate sheet in a set of plans.

The six landscape categories are:

1. Buffers
2. Street Buffers
3. Street Trees
4. Parking Lot Landscaping
5. Building Impact Landscaping
6. Tree Save Areas

Also part of the Landscape and Buffering Standards are: ***Alternative Compliance*** standards designed to address the most common site conditions experienced in Asheville which would inhibit the ability to comply with the minimum standards; ***Maintenance*** standards which are included to ensure survival and potential expense of replacing damaged materials; and, ***Preservation and Protection of Existing Vegetation*** which includes incentives to retain existing mature vegetation on site by affording significant credits along with appropriate measures needed to ensure protection during construction.

In order to receive credits for existing vegetation, site designers must include a plan that lists the species, caliper size, and approximate location in order to determine the appropriate number of plant credits along with the balance of material that may need to be added (some municipalities require a detailed “tree survey”- COA accepts less detailed plans). In addition to a plan detailing the credits, staff also requires the installation of tree protection fencing (usually orange safety fencing) to be installed before the issuance of any permits that would result in land disturbance.

All required landscaping (including preserved areas that are needed to comply) must be maintained and protected as a condition of the approved site plan. To remove or damage the required material typically results in fines but at a minimum, requires replacement of the material. These standards are enforced by the Planning and Development department’s code enforcement division. The one possible exception to enforcement is for those ***Tree Save Areas*** that are located on single family home lots as part of a subdivision. In these circumstances, the ***Tree Save Areas*** may be required as a condition of the subdivision but once the individual lots are sold and occupied, enforcing preservation on those individual lots becomes more complicated due to the lack of enabling legislation at the state level.

Regarding the matter of legislation, more and more states are adopting standards that would allow (or even require) preservation of trees and natural areas and this does appear to be the national trend. Presently, land use decisions appear to be falling on the side of preservation particularly when it can be demonstrated that there is a public benefit to the preservation of those areas. This has been the COA’s position when it came to preserving vegetation in designated steep slope areas.

Recommendation: No recommendation – this report is informational only.